

United States District Court District of Massachusetts

IRON MOUNTAIN INC., et al.
Plaintiffs,

V.

CIVIL ACTION NO. 05-10890-RCL

THOMAS CARR,
Defendant,

AND

THOMAS CARR,
Counter-Plaintiff,

V.

IRON MOUNTAIN INC. et al.
Counter-Defendants.

PROCEDURAL ORDER

COLLINGS, U.S.M.J.

In defendant Thomas Carr's Reply to Plaintiffs' Opposition to Carr's Motion to Disqualify (#43), Carr raises what is essentially a new argument—that Varn and Miller should be disqualified because of an unwritten “common interest” agreement entered into by Iron Mountain and

Carr, through their respective counsel, pursuant to which confidential information was exchanged, confidential information that Varn is now allegedly using in the instant lawsuit. (See #43, pp. 6-11) Plaintiffs, not having filed a sur-reply brief, have never addressed the “common interest” argument raised by Carr.

Accordingly, counsel are ORDERED to file, ***on or before the close of business on Thursday, November 17,*** a brief addressing the issue of Massachusetts Rule of Professional Conduct 1.9 and the purported common interest agreement entered into by Iron Mountain and Carr.

/s/ Robert B. Collings

ROBERT B. COLLINGS
United States Magistrate Judge

Date: November 7, 2005.